

SUBCHAPTER B : RADIOACTIVE SUBSTANCE FEES

§§336.101-336.113

Effective June 5, 1997

§336.101. Purpose and Scope.

(a) This subchapter establishes fees for licensing, emergency response activities including training, and other regulatory services and provides for their payment.

(b) Except as otherwise specifically provided, this subchapter applies to any person who is:

(1) an applicant for or holder of a radioactive material license issued under Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material), Subchapter G of Chapter 336 of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities), or Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste); or

(2) the holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission under 10 CFR Part 50 (relating to Domestic Licensing of Production and Utilization Facilities); or

(3) the operator of any other fixed nuclear facility.

Adopted May 14, 1997

Effective June 5, 1997

§336.102. Definitions.

Terms used in this subchapter are defined in §336.2 of this title (relating to Definitions). Additional terms used in this subchapter have the following definitions:

Emergency response - The application of those capabilities necessary for the protection of the public and the environment from the effects of an accidental or uncontrolled release of radioactive materials, including the equipping, training, and periodic retraining of response personnel.

Fixed nuclear facility -

(A) Any nuclear reactor(s) at a single site;

(B) Any facility designed or used for the assembly or disassembly of nuclear weapons; or

(C) Any other facility using special nuclear material for which emergency response activities, including training, are conducted to protect the public health and safety or the environment.

Post-closure - The period of time following completion of closure of a uranium mill tailings impoundment or byproduct material disposal site by a licensee under Subchapter G of Chapter 336 of this

title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities) and before transfer of land ownership to the State or the United States government and termination of the license.

Adopted May 14, 1997

Effective June 5, 1997

§336.103. Schedule of Fees for Subchapter H Licenses.

(a) An application for a radioactive waste disposal site license under Subchapter H of Chapter 336 of this title (relating to Licensing Requirements for Near-Surface Land Disposal of Radioactive Waste) shall be accompanied by an application fee of \$415,000. The application fee covers the cost of processing of the application. The applicant may pay the application fee in two equal installments. The first payment shall be made upon submission of the application, and the balance shall be paid no more than 12 months later.

(b) An applicant shall submit an annual fee for the actual costs incurred by the commission for hearings associated with an application for a radioactive waste disposal site under Subchapter H of Chapter 336 of this title. The executive director shall send an invoice for the amount of the costs incurred during the period September 1 through August 31 of each year. Payment shall be made within 30 days following the date of the invoice.

(c) A holder of a license for a radioactive waste disposal site issued under Subchapter H of Chapter 336 of this title shall submit an annual license fee for the services received. This fee shall recover for the State the actual expenses arising from the regulatory activities associated with the license. This fee shall include reimbursement for the salary and other expenses of a resident inspector as provided by §336.743 of this title (relating to Resident Inspector). The executive director shall send an invoice for the amount of the costs incurred during the period September 1 through August 31 of each year. Payment shall be made within 30 days following the date of the invoice.

Adopted May 14, 1997

Effective June 5, 1997

§336.104. Schedule of Fees for Subchapter G Licenses.

(a) Application fees. Each application for a license under Subchapter G of Chapter 336 of this title (relating to Licensing Requirements for Source Material (Uranium or Thorium) Recovery and Processing Facilities) shall be accompanied by an application fee, as follows:

(1) conventional uranium mill with tailings disposal facility: \$306,780;

(2) in situ uranium mining and processing facility: \$180,500;

(3) heap leach facility: \$183,450;

(4) facility only for disposal of byproduct material, as defined in §336.2, subparagraph (B), of this title (relating to Definitions): \$227,335; or

(5) disposal facility for naturally-occurring radioactive material (NORM) waste, excluding oil and gas NORM waste: \$227,335.

(b) Annual license fees. An annual fee of \$54,846 shall be paid for each license issued under Subchapter G of Chapter 336 of this title including:

- (1) conventional uranium mill with tailings disposal facility, in post-closure;
- (2) conventional uranium mill with tailings disposal facility, during reclamation;
- (3) in situ uranium mining and processing facility, operational;
- (4) in situ uranium mining and processing facility, during reclamation; and
- (5) facility only for disposal of byproduct material, operational.

(c) Adjustments to annual license fees. A licensee that is authorized under Subchapter G of Chapter 336 of this title to conduct disposal (including processing, if applicable) of byproduct material, as defined in §336.2, subparagraph (B), of this title (relating to Definitions), from others shall pay an additional annual fee of \$23,000, along with the fee specified in subsection (b) of this section, except for facilities licensed for disposal only.

(d) Fees for certain amendment requests.

(1) An application for amendment of a license issued under Subchapter G of Chapter 336 of this title shall be accompanied by an amendment application fee as set forth in this subsection for amendment requests involving:

(A) addition of an in situ mining well field or expansion of an existing well field:
\$25,765;

(B) addition of waste fluid disposal by irrigation or surface discharge: \$6,175;

(C) addition of a satellite recovery system (e.g., lixiviant-stripping ion-exchange unit): \$64,415;

(D) addition of a non-vacuum dryer (i.e., a dryer operating at or above atmospheric pressure): \$45,630; or

(E) addition of disposal (including processing, if applicable) of byproduct material, as defined in §336.2, subparagraph (B), of this title (relating to Definitions) from others: \$64,415.

(2) For a facility listed in paragraph (1) of this subsection to be added to a license by means of a license amendment, the facility shall conform to the requirements of §336.606(b) of this title (relating to Issuance of License). If a proposed facility does not conform to the requirements of §336.606(b) of this title, an application for a separate license may be required.

(e) Fees for certain other requests. The fee for a request for release for unrestricted use of a subsite or a portion of a licensed area and a request for agency confirmation of work performed for those areas, shall be the actual costs of confirmatory work performed where the work is to be contracted out to a third party.

Adopted May 14, 1997

Effective June 5, 1997

§336.105. Schedule of Fees for Subchapter F Licenses.

(a) Application fee. Each application for a license under Subchapter F of Chapter 336 of this title (relating to Licensing of Alternative Methods of Disposal of Radioactive Material) shall be accompanied by an application fee as follows:

(1) facility at which active disposal operations have ceased: \$10,000; or

(2) proposed facility with active disposal operations: \$20,000.

(b) Annual license fees. An annual license fee shall be paid for each license issued under Subchapter F of Chapter 336 of this title. The amount of each annual fee shall be as follows:

(1) licensed facility at which active disposal operations have ceased: \$8,400; or

(2) licensed facility with active disposal operations: \$28,900.

(c) Fees for certain amendment requests. An application for amendment of a license issued under Subchapter F of Chapter 336 of this title shall be accompanied by an application fee as set forth in this subsection if the amendment involves expansion of previously authorized disposal facilities or addition of disposal facilities. The amount of the amendment application fee shall be \$10,000.

Adopted May 14, 1997

Effective June 5, 1997

§336.106. Annual Fees for Emergency Response Activities, including Training.

Each holder of a fixed nuclear facility construction permit or operating license issued by the United States Nuclear Regulatory Commission or an operator of any other fixed nuclear facility shall submit an annual fee for the services received. This fee shall recover for the State the actual expenses arising from emergency response activities, including training. Costs of activities benefiting more than one facility shall be prorated. The executive director shall send an invoice after completion of emergency response activities held before August 31 of each year. Payment shall be made within 30 days following the date of the invoice.

Adopted May 14, 1997

Effective June 5, 1997

§336.107. Annual License Fee Due Date and Period Covered.

(a) Payment for annual fees set forth in §336.104(b) and (c) of this title (relating to Schedule of Fees for Subchapter G Licenses) and §336.105(b) of this title (relating to Schedule of Fees for Subchapter F

Licenses) shall be due in full each year on or before the last day of the expiration month of the license. As an example, if the license expires on May 31, 1999, annual fees are due on or before May 31 of each year.

(b) The period covered by each annual fee set forth in §336.104(b) and (c) of this title and §336.105(b) of this title shall be the 12 months preceding the fee payment due date.

Adopted May 14, 1997

Effective June 5, 1997

§336.108. Proration of Annual Fee Adjustments.

If issuance of a license amendment results in an adjustment to the annual license fee under §336.104(c) of this title (relating to Schedule of Fees for Subchapter G Licenses), the additional fee amount specified in §336.104(c) of this title shall be prorated based on the number of months the amendment is effective out of the 12-month period covered by the annual fee, including the month the amendment is issued. As an example, if a license amendment resulting in adjustment of an annual fee is issued on April 10 and the next annual fee is due on or before September 30, then 6/12 of the additional fee amount specified in §336.104(c) of this title shall be paid, along with the full amount of the applicable annual fee.

Adopted May 14, 1997

Effective June 5, 1997

§336.109. Fees after Request for Termination of License.

(a) If a licensee requests termination of a license, the amount of the annual fee due on the next fee payment due date may be prorated based on the number of months completed through the month of the termination request out of the 12-month period covered by the annual fee. As an example, if a licensee requests termination of a license on August 20 and the next annual fee is due on or before November 30, the annual fee for that year may be prorated as 9/12 of the applicable fee amount. After the next annual fee due date, the annual fee may be waived pending the final determination on the termination request. The annual fee may be prorated or waived as provided in this subsection if the executive director has reasonable basis to find, from information provided by the licensee, that the licensee has satisfied the applicable requirements for decommissioning and closure. If the executive director has insufficient information or finds that the licensee has not satisfied the requirements for decommissioning and closure, the annual fee shall not be prorated or waived and shall be the full amount.

(b) If an annual fee has been prorated or waived under subsection (a) of this section and the executive director later determines, before making the final determination on the request for termination, that the licensee has not met the decommissioning and closure requirements, then any amount of annual fees not paid due to proration or waiving shall be payable immediately upon notice to the licensee.

(c) The commission may not terminate a license for which the licensee has not paid any outstanding fees prescribed by this subchapter until the fees are paid.

Adopted May 14, 1997

Effective June 5, 1997

§336.110. Nonrefundable Fees.

(a) Fee payments set forth in this subchapter are not refundable, except as provided in subsection (b) of this section. Fee payments for applications or amendment applications as set forth in this subchapter shall be charged irrespective of the commission's disposition of the application or a withdrawal of the application by the applicant.

(b) If the executive director determines that a license application or an amendment application is not administratively complete, the application and any accompanying application fee may be returned to the applicant.

Adopted May 14, 1997

Effective June 5, 1997

§336.111. Method of Payment of Fees.

Fee payments prescribed by this subchapter shall be made in cash or by check or money order made payable to the Texas Natural Resource Conservation Commission. The payments may be made by personal delivery to the Financial Administration Cashier Office, Texas Natural Resource Conservation Commission, in Austin, Texas, or mailed to the Texas Natural Resource Conservation Commission, MC 181, P.O. Box 13088, Austin, Texas 78711-3088.

Adopted May 14, 1997

Effective June 5, 1997

§336.112. Failure to Pay Prescribed Application Fees.

In any case where an applicant for a license or a license amendment has failed to pay the application fee or amendment application fee prescribed in this subchapter, the executive director shall not process that application until this fee is paid in full. If the applicable fee is not paid in full, the executive director may find that the application or amendment application is not administratively complete and may return the application to the applicant.

Adopted May 14, 1997

Effective June 5, 1997

§336.113. Failure to Pay Prescribed Annual Fees.

(a) In any case where the executive director finds that a licensee has failed to pay a fee prescribed by this subchapter by the due date, the licensee shall be assessed a penalty of 5% of the amount due. If the fees are not paid within 30 days after the due date, an additional 5% penalty shall be imposed. An annual interest rate of 12% shall be imposed on delinquent fees beginning 60 days from the due date.

(b) In any case where the executive director finds that a licensee has failed to pay a fee prescribed by this subchapter by the due date, the executive director may implement compliance procedures.

(c) In any case where the executive director finds that a fixed nuclear facility has failed to pay fees for emergency response activities, including training, within 90 days following the date of the invoice, the executive director may recommend and the commission may issue an order to show cause why those services should not be terminated.

Adopted May 14, 1997

Effective June 5, 1997